



The Comptroller General
of the United States

Washington, D.C. 20548

Cunningham

Decision

Matter of: Hill's Capitol Security, Incorporated
File: B-233411
Date: March 15, 1989

DIGEST

1. Award for security guard services at a price 14 percent higher than the protester's does not appear unreasonable where awardee's proposal was considered technically superior to protester's proposal in areas related to understanding of the solicitation requirements, experience of shift supervisors, and proposed training courses and where the guard services are critical to the agency mission.
2. An agency, during discussions, does not have to discuss elements of a proposal that are acceptable, albeit lower-ranked, in comparison to higher-ranked elements in another proposal.

DECISION

Hill's Capitol Security, Incorporated, protests the award of a fixed-price contract to AM-PRO Protective Agency, Inc., under request for proposals (RFP) No. SECHQ1-88, which was issued by the Securities and Exchange Commission (SEC) for security guard services at SEC's headquarters building in Washington, D.C., for the base period beginning December 1, 1988, through September 30, 1989, with options for fiscal years 1990 and 1991.

Hill's contends that the relative technical merit of its proposal, which offered a lower price than AM-PRO, should have resulted in award to Hill's rather than AM-PRO. We deny the protest.

The RFP provided that offerors should furnish both a technical and a price proposal. The technical proposal was to include a detailed description of the techniques and procedures to be employed in achieving the proposed end results in compliance with the specified RFP work requirements.

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The RFP provided that the proposals would be evaluated technically according to the following criteria and weights:

<u>Factors</u>	<u>Weight</u>
A. Understanding of the Requirement	15
B. Organizational Experience	35
C. Background and Qualifications of Proposed Staff	15
D. Facilities and Equipment	10
E. Training	25
Total	<u>100</u>

The RFP further provided that the technical proposal would be the "paramount" evaluation factor, but that if technical proposals were essentially equal, cost or price would be the determining factor.

Proposals were received from several companies, including Hill's and AM-PRO. After the offerors' technical proposals were evaluated by the SEC, the Hill's proposal was numerically ranked in the middle of all the evaluated proposals and was considered in the competitive range. The majority of the evaluation panel had concerns about Hill's understanding of the RFP requirements; these evaluators felt that Hill's proposal overstated SEC's requirements. For example, one evaluator noted that Hill's had proposed to operate SEC's telephone switchboard and public address system, even though this was not required. Consequently, Hill's was somewhat penalized in the evaluation under the "Understanding the Requirement factor." As to training, evaluator one noted that the Hill's proposal contained a major weakness in that only 8 hours of formal training for the guard force were proposed. By contrast, the general consensus of the panel was that AM-PRO understood SEC's requirements and that there was every indication that AM-PRO would meet them.

Following the evaluation of initial proposals, SEC conducted discussions with Hill's and the other offerors in the competitive range where SEC identified to Hill's various weaknesses and questions concerning training, background investigation, guard hiring practices, etc., for further clarification. Following the discussions, best and final offers (BAFOs) were requested.

As a result of the discussions with Hill's and the contents of the firm's BAFO, the SEC evaluators continued to have concerns about the protester's understanding of the requirements. Also, although Hill's did revise its training approach to the extent that one evaluator gave the Hill's proposal the maximum score in the training area, it also submitted with its BAFO a revised training program, originally prepared for other government agencies. This training program listed unrelated training courses in, for example, "Maryland Laws," "General Information/General & Special Orders for NIH [National Institutes of Health] Facilities," and "NIH Desk Book Contents and Procedures," which were not applicable to SEC.

SEC evaluated the Hill's proposal at 86 points. The SEC has informed us, however, that because of mathematical errors the Hill's total score should actually have been scored at 93; nevertheless, as discussed below, SEC insists that this error does not affect the soundness of its decision to award to AM-PRO since AM-PRO's proposal received 98 points (another firm's proposal received 99 points). Although the Hill's proposed price was about 14 percent less than AM-PRO's proposed price, the AM-PRO price was considered to be fair and reasonable.

SEC then announced its intention to award to AM-PRO as the firm with the "most advantageous offer," which prompted this protest from Hill's. SEC has awarded the contract and has allowed performance of the contract to continue pursuant to a finding that contract performance was in the government's best interests.

In response to the protest, SEC's technical panel and the contracting officer reexamined the proposals and again concluded that AM-PRO's proposal was technically superior to the Hill's proposal. In this regard, we have recognized that where an agency finds during the course of a protest that a proposal has been miscalculated, it has the discretion to reevaluate proposals, and may reasonably find that the ultimate award selection has not been affected; our Office's review of the reevaluation is to determine whether the source selection decision is still reasonable. Spectra Technology, Inc.; Westinghouse Electric Corp., B-232565 et al., Jan. 10, 1989, 89-1 CPD ¶ _____; American Express Bank Ltd., 67 Comp. Gen. 84 (1987), 87-2 CPD ¶ 488. In conducting such a review, our Office does not determine independently the relative merit of proposals, as the evaluation of proposals is properly the function of the contracting agency which must bear the burden of any

difficulties resulting from a defective evaluation. Bell Free Contractors, Inc., B-227576, Oct. 30, 1987, 87-2 CPD ¶ 418; Litton Systems, Inc., Electron Tube Division, 63 Comp. Gen. 585, 588 (1984), 84-2 CPD ¶ 317 at 4.1/

In the reevaluation, the panel stated that AM-PRO's proposal showed a clear understanding of the RFP's security requirements without addressing irrelevant and extraneous issues. On the other hand, Hill's proposed to perform services involving equipment that was not covered in the RFP, namely: clock stations, telephone answering services, facsimile equipment, public address system, and monthly fire extinguisher checks. In the panel's view, the fact that Hill's did so detracted from its account of its understanding of the agency's requirements. Next, the panel determined that while the Hill's proposed shift supervisors met the minimum requirements^{2/} of the RFP, AM-PRO's proposed shift supervisors were technically superior to those proposed by Hill's because they had more experience. Finally, on reevaluation, the panel considered the protester's proposed training to be somewhat inferior to that proposed by AM-PRO, since some of its proposed training courses (for example, "Maryland Laws" and "NIH Desk Book Contents and Procedures") were clearly unrelated to the SEC's needs which left the panel with the burden of making assumptions regarding the Hill's training curriculum. Given these circumstances, SEC's panel found AM-PRO's proposal was technically superior to the Hill's proposal. The contracting officer concurred in the evaluation panel's findings concerning the evaluated technical superiority of AM-PRO's proposal and determined that the technical superiority of AM-PRO's proposal was worth the additional cost of approximately \$50,000 per year for 3 years.

1/ Hills has contended that the evaluators' initial point scores contain inappropriate deductions relating to the work experience of Hill's proposed guards, Hill's bid/performance bonds, the uniforms of the company's work force, and the adequacy of proposed background checks for Hill's guards. However, since the proposals were re-evaluated and the award selection rejustified for the reasons set out below, we need not consider these protest bases. See American Express Bank Ltd., 67 Comp. Gen. 84, supra.

2/ The RFP at section C.19.F provided that each shift supervisor was to have a minimum of 2 years successful experience in field supervision unless SEC approved the substitution of less-experienced individuals.

Although Hill's contests all three bases on which the SEC relies to justify award to AM-PRO, we find this record supports the award selection.

With regard to its understanding of the RFP, Hill's argues that it properly proposed to operate various equipment such as the public address system. Nevertheless, as noted by SEC, the RFP provided that the guards would only monitor certain equipment such as the fire alarm, further, some of the equipment (for example, clock stations) mentioned by Hill's was not even listed in the RFP. Thus, we think that SEC could legitimately find that the Hill's proposal evidenced a lack of understanding of the actual SEC requirements.

Hill's states that its shift supervisors were acceptable and therefore it should have received as many points in this area as did AM-PRO. However, the Hill's proposal indicated a lower experience level for these personnel than that possessed by the AM-PRO proposed supervisors; in such circumstances, it was not unreasonable for SEC to score the proposals as it did. See Computer Sciences Corp., B-189223, Mar. 27, 1978, 78-1 CPD ¶ 234.

We also have no basis to question SEC's final assessment of the protester's proposed training which, admittedly, as noted above, contained courses of a type irrelevant to the SEC's needs. Although Hill's insists it was proper for it to offer "GSA training accepted by other Government agencies," we concur that were irrelevant with SEC that the offer courses to SEC's requirements was a weakness.

Next, Hill's argues that there is no justification for the award to AM-PRO at a higher price. We have observed that contract selection officials have broad discretion in determining the manner and extent to which they will make use of the technical and price evaluation results. Lockheed Corp., B-199741.2, July 31, 1981, 81-2 CPD ¶ 71. Where the contracting agency has made a price/technical tradeoff, the question is whether the tradeoff was reasonable in light of the solicitation's evaluation scheme. Petro-Engineering, Inc., B-218255.2, June 12, 1985, 85-1 CPD ¶ 677.

Here, SEC reports that due to the nature and confidentiality of many documents used and the damage that could result from disclosure, it is essential that SEC obtain the most technically qualified security guard service available. SEC states that its mission of enforcing federal security laws would be seriously jeopardized if access were not controlled since unauthorized access would increase the opportunity for persons to tamper with or acquire sensitive

"inside" information. Consequently, given the three weaknesses identified in Hill's proposal, we cannot conclude that the SEC's decision to award to the higher technically rated AM-PRO, despite its higher price, was unreasonable.

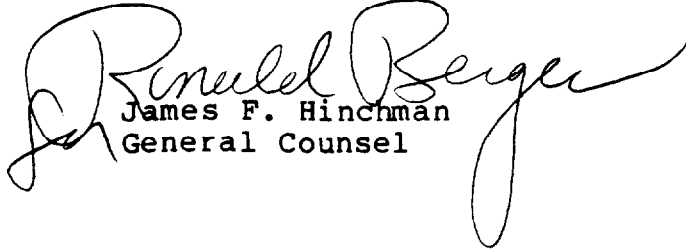
Finally, Hill's complains that SEC did not conduct meaningful discussions with the company in the three areas (RFP work requirements, shift supervisors, and training courses), that formed the basis for the SEC's determination that AM-PRO's proposal is technically superior to Hill's proposal. Agencies are not obligated to conduct all encompassing discussions or to discuss every element of a technically acceptable offer that has received less than the maximum possible score. The Earth Technology Corp., B-230980, Aug. 4, 1988, 88-2 CPD ¶ 113; JTC Environmental Consultants, Inc., B-229882, B-229882.2, May 2, 1988, 88-1 CPD ¶ 420. Agencies need only lead offerors into areas of their proposals which required amplification or correction. SelectTech Services Corp., B-229851, Apr. 18, 1988, 88-1 CPD ¶ 375.

Here, as indicated by its 93 out of 100 point score, Hill's submitted a better than acceptable proposal. Also, as indicated above, Hill's was requested to and did provide amplification in a number of areas where the panel perceived that Hill's proposal had weaknesses.

We find that SEC's discussions with Hill's were meaningful. For example, SEC did not have to point out that Hill's proposal apparently exaggerated the scope of the RFP, since the proposal was acceptable and reflected an offer to perform all RFP tasks; bringing this matter to the protester's Hill's attention during discussions so it could remove the references to out-of-scope tasks would not remove SEC's legitimate doubts about its basic understanding of the RFP requirements. See Eagan, McCallister Assocs., Inc., B-231983, Oct. 28, 1988, 88-2 CPD ¶ 405. With regard to the Hill's shift supervisors, they were found acceptable, and while a competitor's supervisors were viewed as more experienced, that did not require the agency to conduct discussions with the protester about its supervisors since this area of the proposal was not regarded as deficient. Finally, the extraneous training courses were first identified by Hill in its revised proposal after discussions were conducted; there was no duty to reopen discussions to

explore this relatively minor weakness. Consequently, we conclude that SEC satisfied its requirement to conduct meaningful discussions.

The protest is denied.



James F. Hinchman
General Counsel